

REMARKS

Favorable consideration of this application, as presently amended and in light of the following discussion, is respectfully requested.

Claims 1-16 are pending, with Claims 1 and 7 amended and Claims 10-16 added by the present amendment.

In the Official Action, Claims 1-8 were rejected under 35 U.S.C. § 102(e) as being anticipated by Andrews (U.S. Patent No. 5,757,271, hereinafter Andrews); and Claim 9 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Andrews in view of Thorne et al (U.S. Patent No. 5,958,005, hereinafter Thorne).

Claims 1 and 7 are amended to more clearly describe and distinctly claim Applicants' invention. Support for these amendments is found at Applicants' originally filed specification.¹ New Claims 10-16 are directed to an alternate embodiment disclosed in Applicants' original filed specification and have been granted in Applicants' corresponding European application. No new matter is added.

Briefly recapitulating, Claims 1 and 7 are directed to a mobile communications terminal and a server, respectively, configured to communicate over a wireless communications network. The mobile communications terminal includes a detection unit for detecting a security level of a destination of connection, and an announcing unit for announcing the detected security level. The server includes a server side detection for detecting a security level and a server side security level setting unit for setting at least one of the security level permitting communications and a security level not permitting communication.

¹ Specification, Fig. 3.

Andrews describes a portable computer and method of providing security for an electronic device.² However, Andrews does not disclose or suggest a mobile communications terminal or a server configured to communicate over a wireless telecommunications network, let alone a mobile communications terminal including a detection unit for detecting a security level of a destination of connection, and an announcing unit for announcing the detected security level.

MPEP § 2131 notes that “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). “When a claim covers several structures or compositions, either generically or as alternatives, the claim is deemed anticipated if any of the structures or compositions within the scope of the claim is known in the prior art.” *Brown v. 3M*, 265 F.3d 1349, 1351, 60 USPQ2d 1375, 1376 (Fed. Cir. 2001) (claim to a system for setting a computer clock to an offset time to address the Year 2000 (Y2K) problem, applicable to records with year date data in “at least one of two-digit, three-digit, or four-digit” representations, was held anticipated by a system that offsets year dates in only two-digit formats). See also MPEP § 2131.02. “The identical invention must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Because Andrews does not disclose or suggest all the features recited in Claims 1 and 7, Andrews does not anticipate the invention recited in Claims 1 and 7, and all claims depending therefrom.

Applicants have also considered Thorne and submit Thorne does not cure the deficiencies of Andrews. As none of the cited prior art, individually or in combination, disclose or suggest all the elements of independent Claims 1 and 7, Applicants submit the

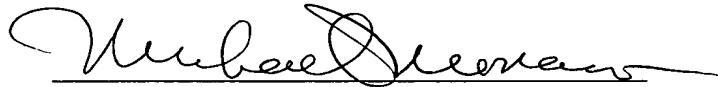
² Andrews, abstract.

inventions defined by Claims 1 and 7, and all claims depending therefrom, are not rendered obvious by the asserted references for at least the reasons stated above.³

Accordingly, in view of the present amendment and in light of the previous discussion, Applicants respectfully submit that the present application is in condition for allowance and respectfully request an early and favorable action to that effect.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Bradley D. Lytle
Attorney of Record
Registration No. 40,073

Michael Monaco
Registration No. 52,041

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 06/04)

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³ MPEP § 2142 "...the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)."